

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).

APPLICATIONS OF

VIRGINIA ELECTRIC AND POWER COMPANY

**For approval of expenditures
for new generation facilities
and for a certificate of public
convenience and necessity**

CASE NO. PUE000009

and

**For approval and certification
of transmission facilities**

HEARING EXAMINER'S RULING

July 28, 2000

On January 21, 2000, Virginia Electric and Power Company ("Virginia Power" or the "Company") filed an application requesting Commission approval of expenditures pursuant to § 56-234.3 of the Code of Virginia to construct two new gas-fired combustion turbine generating units ("CTs") approximately 160 megawatts ("MW") each in Caroline County, Virginia, near the Town of Ladysmith and the Company's Ladysmith Substation. Virginia Power also requested a certificate of public convenience and necessity for the proposed units pursuant to § 56-265.2. The units are proposed to meet a portion of Virginia Power's projected increase in its capacity requirements for the year 2001. That application was docketed as Case No. PUE000009.

A second application was filed at the same time. In that application the Company requested approval and certification pursuant to the Utility Facilities Act and § 56-46.1 of the Code of Virginia of approximately four miles of 230 kV transmission line to connect the proposed generating units to the Company's transmission facilities. That application was docketed as Case No. PUE000010.

By Order dated February 16, 2000, the Commission merged Case No. PUE000010 into Case No. PUE000009 so that both applications could be considered together, established a procedural schedule, and set a public hearing for May 23, 2000.

On May 4, 2000, Virginia Power, by counsel, filed a Motion for Interim Authority to make financial expenditures and to undertake permitting, site development and construction work for the proposed combustion turbine peaking units and related facilities. Virginia Power sought such authority at its own expense and risk, to ensure timely installation and completion of the project if approved. The Company asserted that the generating unit equipment is scheduled to be delivered to the site in October 2000, and

that a minimum of eight months is needed to erect the units. The Company argued that a longer schedule would provide a great probability of meeting the June 1, 2001 commercial operation date. Therefore, to enhance the probability of meeting the commercial operation date, the Company requested the Commission to conditionally grant it authority to make financial expenditures for the project to begin necessary permitting, site preparation and construction work, as needed. On May 11, 2000, at the direction of the Hearing Examiner, Virginia Power filed a supplement to its Motion to more fully address the urgency of its request. Therein it advised that it had started site preparation and engineering work in February and April 2000, respectively, but that the Company wanted to position itself to begin construction work such as building foundations and other facilities during the summer construction season.

Dynegy Power Corporation ("Dynegy") and Staff both opposed the Motion. Dynegy argued that Virginia Power had not made a factual showing to support its contention that interim authority was necessary. Moreover, Dynegy argued that the Commission's precedent did not support granting the Motion. It recognized that in limited instances the Commission had granted similar interim authority, but notice and an opportunity for hearing on those requests was provided or evidence was received before the Commission acted. Dynegy asserted that to the extent that there was time pressure present in the instance case, the responsibility fell on Virginia Power.

Staff also urged the Commission to deny the Motion without prejudice. Staff also argued that the Company had not provided any compelling reason to warrant granting the motion and identified several environmental issues that required consideration before any construction work began.

By ruling dated May 15, 2000, the Motion was denied without prejudice because no compelling reason was offered to grant the Motion at that time. The Commission has granted interim authority similar to that requested in two recent cases but a hearing was held and evidence received in one case before the Commission granted such interim authority.¹ Notice and an opportunity for hearing on a similar request was provided before the authority was granted in a second case.²

On July 27, 2000, Virginia Power filed a motion to renew its request for interim authority to make financial expenditures for the Ladysmith combustion turbine units and related facilities proposed in this case, and to undertake preliminary construction work as Virginia Power may determine appropriate to ensure the timely installation and completion of the project at its own expense and risk.

¹ *Application of Virginia Electric and Power Company for approval of expenditures for new generation facilities pursuant to Virginia Code Section 56-234.3 and for a certificate of public convenience and necessity pursuant to Virginia Code Section 56-265.2, Case No. PUE980462, Order (January 14, 1999).*

² *Application of Doswell Limited Partnership, Case No. PUE000092, Order Granting Exemption (April 20, 2000).*

The Company asserts that it has entered into a contract with General Electric ("GE") for the construction and installation of the units. At the hearing Counsel to the Company had advised that if the Company started construction on October 1, and everything worked perfectly, the facility would be on line June 1, 2001. He explained that the October 1 date was necessary because it takes a month or so to put the infrastructure in and it takes 30 days for the concrete to cure before you can install the units.³ Now, for the first time in this record the Company reveals that its contract with GE requires construction to begin by August 1, 2000, to meet the June 2001 completion date. It further asserts, for the first time, that the Company will incur significant cost, approximately \$10,000 a day, if construction begins later than August 1.⁴

My report in this matter is imminent, and will recommend that the Commission approve the Ladysmith units. Briefly stated, the record reveals an uncontested need for additional capacity. The Company's current load forecast shows a continuing growth in demand for cumulative capacity needs of 810 MW in 2001, 1001 MW in 2002, and 1,179 MW in 2003.⁵ The Company issued a competitive solicitation for additional capacity or request for proposals ("RFP") on December 10, 1999, but Mr. Hilton testified that the preliminary review indicates that the Company's build option remains the most cost-effective option at this time. The cost of the units will be approximately \$305 per kW with an overnight construction cost of \$97.5 million.⁶ The proposed units will meet only a portion of the Company's additional capacity needs. Therefore the Company intends to continue to evaluate the December 1999 bids, and will continue to look to the wholesale power market.⁷

Dynegy urges the Commission to deny the application and generally argued that these units would increase Virginia Power's market power and therefore would not be in the public interest. Although Virginia Power responded by arguing that the record in this case does not support a finding that it has market power, the Commission recently found that Virginia Power possessed "substantial market power over the provision of electric utility service within its current service territory, and will continue to possess such market power for the foreseeable future."⁸ In that case the Commission also found that in the new competitive market envisioned by the Virginia Electric Utility Restructuring Act,⁹ it would favor awarding power supply contracts for required capacity to entities other than incumbent electric utilities if all things were equal.¹⁰ Further, Mr. Hilton acknowledges that the Company has concentrated ownership of generation in its control area.

Although these units will contribute, as did the Remington units, to Virginia Power's market power in its control area, Staff witness Walker reviewed the Company's alternative

³Transcript 355.

⁴Motion at 2.

⁵Exhibits EPH-2, at 2 and CAS-7, at 4.

⁶Exhibit EPH-2, at 3.

⁷Exhibit JLJ-8, at 2.

⁸*Application of Virginia Electric and Power Company*, (the "Remington case") Case No. PUE980462, Order at 7 dated May 14, 2000.

⁹Virginia Code § 56-576 *et seq.*

¹⁰The *Remington case*, *supra*, at page 7.

sources of supply for meeting the projected capacity requirements. He testified that a preliminary evaluation of the bids indicated that the proposals were either more expensive than the proposed units or represented commitments to supply power from spot markets that would also be available to the Company.¹¹ He testified that Staff agrees that the proposed CTs will cost less and provide greater reliability than any of the proposals. Mr. Walker testified that the Company is negotiating with one of the December 1999 bidders for 220 MW of capacity, but the forecasted requirements support the addition of that capacity and that provided by the proposed units.¹²

Staff also testified that the Department of Environmental Quality ("DEQ") coordinated a review of the proposed CT construction. The DEQ recommended a number of actions to minimize any potential impact to natural resources, but when questioned at the hearing, Company witness Rivas had no problem with any of the DEQ recommendations.¹³ Mr. Rivas also discussed actions that the Company would take to minimize the impact of the construction on the wetlands on the project site.¹⁴ The record supports a finding that the proposed facilities will minimize any adverse effect on the environment.

The record establishes that the Company has a need for additional capacity, that the Ladysmith CTs are the most cost-effective and reliable alternative available to meet a portion of the Company's capacity need, and the units will reasonably minimize any adverse impact on the environment. The record therefore also supports granting the interim authority that the Company seeks.

I therefore recommend that the Commission **GRANT** the Company's Motion for Interim Authority.

Deborah V. Ellenberg
Chief Hearing Examiner

¹¹Exhibit CDW-13, at 7.

¹²Id.

¹³Transcript 89-94.

¹⁴Exhibit EJR-4.